

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN RE:

ALTA MESA RESOURCES,
INC. SECURITIES
LITIGATION

Civil Action No.
4:19-cv-00957

ALYESKA MASTER FUND,
L.P., ALYESKA MASTER
FUND 2, L.P., and
ALYESKA MASTER FUND 3,
L.P.,

Plaintiffs,

v.

Case No.
4:22-cv-01189

ALTA MESA RESOURCES,
INC., f/k/a SILVER RUN
ACQUISITION CORPORATION
II; RIVERSTONE HOLDINGS,
LLC; ARM ENERGY
HOLDINGS, LLC; BAYOU
CITY ENERGY MANAGEMENT,
LLC; HPS INVESTMENT
PARTNERS, LLC; JAMES T.
HACKETT; HARLAN H.
CHAPPELLE; WILLIAM
GUTERMUTH; JEFFREY H.
TEPPER; DIANA J.
WALTERS; MICHAEL E.
ELLIS; RONALD SMITH; DON
DIMITRIEVICH; PIERRE F.
LAPEYRE, JR.; DAVID M.
LEUSCHEN; WILLIAM W.
McMULLEN; DONALD
SINCLAIR; STEPHEN COATS;
and THOMAS J. WALKER,
Defendants.

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VIDEOTAPED DEPOSITION OF  
JONATHAN BERGER

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3  
4 VIDEOTAPED DEPOSITION OF  
5 JONATHAN BERGER  
6

7 July 13, 2023  
8 9:41 a.m. Central  
9

10  
11 Latham & Watkins  
12 330 North Wabash Avenue  
13 Chicago, Illinois  
14

15  
16  
17  
18  
19 Stenographically Reported By:  
20 Deanna Amore - CRR, RPR, CSR - 084-003999  
21  
22  
23  
24  
25

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1 Q. I'll read it aloud in full. It provides,  
2 in quote, "The concentration of Kingfisher's  
3 operations in this region increases Kingfisher's  
4 exposure to unexpected events that may occur in  
5 this region, such as natural disasters or labor  
6 difficulties."

7 Do you see that full quote?

8 A. I do.

9 Q. And did you read it at the time?

10 A. Same as previous sentence. I don't recall 13:51:21  
11 reading this specific sentence at the time.

12 Presume yes.

13 Q. But you don't recall?

14 A. Don't recall.

15 Q. And fair to say you don't recall anything  
16 specific about it?

17 A. I don't recall anything specific about it.

18 Q. Were you making any investment decisions  
19 in January 2018 based on this language about  
20 potential risks? 13:51:44

21 A. Can't speculate. Don't have, like,  
22 context of remember reading this. So wouldn't want  
23 to -- wouldn't want to say either way.

24 Q. So, I guess, flipping ahead, to jump back,  
25 it's page 309. I've got another line I want to

1 look at with you there, please, and this is in  
2 reference to a percentage of Kingfisher's revenues  
3 being derived from production out of wells. Do you  
4 see some language to that effective?

5 The percentage is 96.9 percent.

6 A. For 2016, yep, see it.

7 Q. Okay. So the language, I believe, is  
8 "96.9 percent of Kingfisher's revenue was derived  
9 from production out of wells operated by  
10 Alta Mesa." 13:52:41

11 Do you see that?

12 A. I do.

13 Q. And did you read that in January of 2018?

14 A. Don't recall.

15 Q. So then do you recall anything about this  
16 language that's memorable to you from  
17 January of 2018?

18 A. Nothing -- there's nothing memorable from  
19 the proxy statement, no.

20 Q. Okay. In January of 2018 at Alyeska were 13:53:03  
21 you basing investment decisions off of this  
22 language?

23 A. Can't speculate because don't recall  
24 reviewing this specific line from the proxy.

25 Q. Okay. So flipping back to page 70 of the

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1 practices, you presume you've read it. Do you  
2 presume you read it word for word?

3 A. This document? I don't know. I don't  
4 recall.

5 Q. Well, what's your general practice?

6 A. Depends. Some we read word for word and  
7 others not always word for word.

8 Q. So if your general practice is to  
9 sometimes read word for word but not always, then  
10 you can't say for sure you read this in full, can 14:02:13  
11 you?

12 A. I don't recall.

13 Q. Okay. Let's take a look at page 15,  
14 please.

15 If you look towards the top -- sorry. Are  
16 you there?

17 A. Yes.

18 Q. Okay. Great. Thanks.

19 If you look at the top of the -- towards  
20 the top of the page, at least, it's under some 14:02:52  
21 bolded, italicized text. I see a paragraph that  
22 starts off with "Our operations involve the use  
23 of."

24 A. Yes.

25 Q. So I'll just read it aloud for the record.



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1           A.    Don't specifically recall reading this  
2    exact sentence.

3           Q.    So you don't have any independent  
4   recollection of these words on a page at the time  
5   the filing was issued?

6           A.     Independent recollection, other than just  
7     reading it in the proxy a minute ago, no  
8     independent recollection.

9 Q. Okay. Thank you.

10                   So at this point in time, then,                   14:04:20  
11       March 29 of '18, Alyeska has invested in AMR.   Were  
12       you basing investment decisions for Alyeska on the  
13       language that we've just read?

14           A.    I wouldn't speculate just given I don't  
15   recall exactly reading these sentences.  So I can't  
16   comment.

17 Q. And then at the end of that bulleted list,  
18 the next paragraph, you see it starts  
19 "In addition"?

|    |         |          |
|----|---------|----------|
| 20 | A. Yes. | 14:04:46 |
|----|---------|----------|

21 Q. All right. I'll just read aloud again for  
22 the record.

23                   It says "In addition, certain of the new  
24           techniques we are adopting may cause irregularities  
25           or interruptions in production due to offset wells

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1           You may proceed.

2       BY MR. JONES:

3           Q.    Okay.  So, Mr. Berger, sticking with this  
4   March 29, 2018, 10-K, if you would, please, flip  
5   back to page 15.  There's one line I want to ask  
6   you about there, and we'll keep pushing ahead.

7           A.    Okay.

8           Q.    So I don't think I asked you about this  
9   specific line before.  It's the first bolded and  
10   italicized language.  It says "Our business                   14:16:28  
11   strategy involves the use of the latest available  
12   horizontal drilling, completion, and production  
13   technology which involves risks and uncertainties  
14   in their application."

15                Did I read that correctly?

16           A.    You read that correctly.

17           Q.    And did you read this in March of 2018  
18   when it was filed?

19           A.    I don't recall reading this in March '18  
20   in this K, no.                                                   14:16:50

21           Q.    Okay.  You didn't rely on this statement  
22   in any sense with respect to making investment  
23   decisions?

24           A.    I wouldn't speculate but don't recall  
25   whether we read it here or elsewhere.

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1 seat.

2 So from that first paragraph of just  
3 standard, not bolded text, do you see a sentence  
4 that third line down begins with "The primary  
5 factors affecting our ability"?

6 A. Yes, I do.

7 Q. Okay. So I'll read it aloud real quick.  
8 "The primary factors affecting our ability to  
9 connect new wells to our gathering facilities  
10 include our success in contracting for existing 14:19:29  
11 supplies that are not committed to other systems  
12 and the level of drilling activity near our  
13 gathering system."

14 Did I state that correctly?

15 A. Yes.

16 Q. Okay. And did you read this at the time  
17 it was filed in March of 2018?

18 A. Do not recall.

19 Q. Okay. Did you rely on this statement in  
20 the sense of making an investment decision because 14:19:48  
21 you read it?

22 A. Can't speculate because I don't recall.

23 Q. So you don't remember; is that fair?

24 A. I don't remember reading this here in this  
25 document.

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1 Not exclusively. There are some buys, and  
2 we'll talk about them. But, otherwise, pretty much  
3 all sales?

4 A. That's correct.

5 Q. So sticking with the April 2, 2018, sale  
6 that sort of starts out this trend, why is it that  
7 we see this -- at least when tabulated this way --  
8 seemingly start change from almost exclusively or  
9 pretty much exclusively buying to almost  
10 exclusively selling? 15:18:44

11 A. I would presume this is when the first  
12 earnings print occurs, but I don't know for sure.  
13 I'd be speculating.

14 Q. Yeah. And we had looked at some of  
15 those --

16 A. Do we have the date?

17 Q. -- earnings-related material; right?

18 For example, there was a --

19 A. There you go. Operational --

20 Q. -- March 29 -- 15:19:15

21 A. -- date March 29. Last buy was on  
22 March 28.

23 Q. Yeah. So you think it was connected?

24 A. That's my memory.

25 Q. And then after that it's all sales; right?



1 A. Not all but --

2 Q. Mostly all. Thank you.

3 A. -- majority.

4 Q. Large majority.

5 So March 29, what you just pointed out for  
6 me, that's like -- Alta Mesa, at that point in  
7 time, is conducting an earnings call. It's  
8 revising its guidance. Its figures as announced at  
9 that point are revised related to what they  
10 previously were announced to be. So at that point 15:20:00  
11 Alyeska starts selling off the shares; right?

12 A. Sorry. That was a mouthful of a question.

13 Q. I'll break it down.

14 A. Yeah.

15 Q. March 29. We just talked about these  
16 materials. At that point in time, Alta Mesa is  
17 revising its financial guidance. So immediately  
18 thereafter, Alyeska sells shares, and I'm asking  
19 whether that's connected.

20 A. I presume so. There could be other 15:20:33  
21 factors in the sales that occur but yes.

22 Q. And then -- okay. Thank you.

23 And what's your presumption informed by?

24 A. Relative to what -- my memory of coming  
25 out of the meeting was an extreme confidence that

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